



United States Patent Application

CONCURRENCE DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: FLEXIBLE APPLICATOR FOR APPLYING OIL-IN-WATER EMULSION WITH IMPROVED STABILITY.

The specification of which

- a. ☐ is attached hereto
 b. ☒ was filed on August 27, 2001 as application serial no. 09/939,816 and was amended on _____ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. _____ filed _____ and as amended on _____ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.
 b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
09/360,095	July 23, 1999	Pending

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

**COPY OF PAPERS
ORIGINALLY FILED**

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith: I appoint the following:

Michael B. Farber, Reg. 32,612	Ronald S. Tamura, Reg. 43,179	Kurt A. MacLean, Reg. 31,118
Louis J. Bovasso, Reg. 24,075	Gregory B. Wood, Reg. 28,133	Ben H. Bedi, Reg. 39,904
Marc E. Brown, Reg. 28,590	Daniel Chapik, Reg. 43,424	Everitt George Beers, Reg. 40,508
Christopher Darrow, Reg. 30,166	Harold D. Jastram, Reg. 19,777	Michael K. Bosworth, Reg. 28,186
Charles Berman, Reg. 29,249	Alan D. Kamrath, Reg. 28,227	Justin F. Boyce, Reg. 40,920
Scott R. Hansen, Reg. 38,486	Chad Klingbeil, Reg. 33,002	Chris W. Chou, Reg. 41,672
Michael D. Harris, Reg. 26,690	Craig J. Lervick, Reg. 35,244	Anthony B. Diepenbrock III, Reg. 39,960
Douglas N. Larson, Reg. 29,401	Cyrus Morton, Reg. 44,954	Robert O. Guillot, Reg. 28,852
Spyros J. Lazaris, Reg. 45,981	Bruce Canter, Reg. 34,792	Claude A.S. Hamrick, Reg. 22,586
Alan C. Rose, Reg. 17,047	Louis C. Cullman, Reg. 39,645	Esther La, Reg. 43,734
Charles Rosenberg, Reg. 31,464	Monique Heyninck, Reg. P44,763	Leah Sherry, Reg. 43,918
Guy P. Smith, Reg. 20,142	James W. Inskeep, Reg. 33,910	Marc Bobys, Reg. 45,267

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Oppenheimer Wolff & Donnelly LLP to the contrary.

Please direct all correspondence in this case to Oppenheimer Wolff & Donnelly LLP at the address indicated below:

OPPENHEIMER WOLFF & DONNELLY LLP
2029 CENTURY PARK EAST
38TH FLOOR
LOS ANGELES, CA 90067-3024
Attn: Michael B. Farber, Esq.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Farber	First Given Name Elliott	Second Given Name
0	Residence & Citizenship	City North Mankato	State or Foreign Country Minneosta	Country of Citizenship USA
1	Post Office Address	Post Office Address 1720 Orchid Drive North	City North Mankato	State & Zip Code/Country Minnesota 56003
Signature of Inventor 201:			Date:	
			Oct. 24, 2001	

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;

or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office, or
- (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

ASSIGNMENT

WHEREAS, I, Elliott Farber, residing at 1720 Orchid Drive North, North Mankato, Minnesota 56003, the undersigned inventor and the ASSIGNOR herein, have invented FLEXIBLE APPLICATOR FOR APPLYING OIL-IN-WATER EMULSION WITH IMPROVED STABILITY (14358-314), for which an application for Letters Patent of the United States was filed on August 27, 2001 and was given U.S. Serial No. 09/939,816, and of which inventions and improvements I am the sole owner; and

WHEREAS, Alwyn Company, Inc., is a corporation organized and existing under the laws of the State of Minnesota, having a place of business at Highway 60 East, Lake Crystal, Minnesota 56055, the ASSIGNEE herein, desires to acquire the entire right, title and interest in and to said inventions, applications and Letters Patent to be granted and issued thereon;

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) by the ASSIGNEE to me paid, and other valuable consideration, the receipt and legal sufficiency of all of which is hereby acknowledged, I, the said ASSIGNOR, have sold and do hereby sell, assign, transfer and set over unto said ASSIGNEE, its successors and assigns, the entire right, title and interest in and to said inventions and all improvements thereon, in and to said application for Letters Patent thereon, in and to applications pertaining to or based upon said inventions and applications, including divisional and continuing applications and continuations-in-part, and in and to any and all Letters Patent which may be granted and issued on said inventions and applications, or any of them, not only for, to and in the United States of America, its territories and possessions, but for, to and in all countries foreign thereto, together with and including all priority rights based upon any and all applications in the United States of America covered by this Assignment.

And for the above-named considerations, I do hereby agree that I will, at the request of said ASSIGNEE, execute any and all applications for Letters Patent for said inventions and any and all other papers and documents and do all other and further lawful acts that said ASSIGNEE may deem necessary or desirable to obtain Letters Patent on said inventions, to secure the grant of such Letters Patent and to perfect and vest in the ASSIGNEE the entire right, title and interest in the inventions, applications and Letters Patent.

And for the above-named considerations, I do hereby authorize and empower the ASSIGNEE, its successors and assigns, to apply for and obtain, in its or their own names, Letters Patent for the said inventions before competent International Authorities and in any and all countries foreign to the United States in which applications for Letters Patent can be so made or Letters Patent so obtained.

Dated: Oct. 26, 2001

By: Elliott Farber
Elliott Farber

Minnesota
STATE OF ~~CALIFORNIA~~)
Blue Earth)
COUNTY OF ~~LOS ANGELES~~)

On 10-26-01 before Beth Norgaard
personally appeared Elliott Farber, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Beth A. Norgaard
Notary Public

